

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GEORGINA NARDONE, on behalf of I.F. (a minor), Plaintiff, v. KILOLO KIJAKAZI, Acting Commissioner of Social Security, ¹ Defendant.) Case No.: 1:21-cv-1444 JLT SKO)) ORDER ADOPTING IN FULL THE FINDINGS) AND RECOMMENDATIONS) RECOMMENDING THAT PLAINTIFF’S) MOTION FOR SUMMARY JUDGMENT BE) GRANTED, DEFENDANT’S CROSS-MOTION) FOR SUMMARY JUDGMENT BE DENIED,) AND THE ACTION BE REMANDED TO THE) ACTING COMMISSIONER FOR FURTHER) PROCEEDINGS)) (Docs. 15, 19, 21))
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Georgina Nardone filed a complaint on behalf of her minor child I.F. under 42 U.S.C. § 1383(c) seeking judicial review of a final decision of the Commissioner of Social Security denying her application for Supplemental Security Income under the Social Security Act. (Doc. 1.)

The assigned magistrate judge issued findings and recommendations recommending that Plaintiff’s motion for summary judgment be granted and that Defendant’s motion for summary judgment be denied. (Doc. 21.) The magistrate judge recommended that the action be remanded to the Acting Commissioner for further proceedings because the ALJ’s finding that I.F. was a “preschooler” on the application date was harmful error.

¹ On July 9, 2021, Kilolo Kijakazi was named Acting Commissioner of the Social Security Administration. *See* <https://www.ssa.gov/history/commissioners.html>. She is therefore substituted as the defendant in this action. *See* 42 U.S.C. § 405(g) (referring to the “Commissioner’s Answer”); 20 C.F.R. § 422.210(d) (“the person holding the Office of the Commissioner shall, in [their] official capacity, be the proper defendant.”).

1 The Court granted the parties 14 days from the date of service to file objections to the
2 recommendation of the magistrate judge. (Doc. 21 at 12.) The Court advised the parties “that failure
3 to file objections within the specified time may waive the right to appeal the district judge’s order.”
4 (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 834 (9th Cir. 2014)). Thus, any objections were due
5 no later than November 17, 2022. To date, no objections have been filed.

6 According to 28 U.S.C. § 636 (b)(1)(C) and *Britt v. Simi Valley United School Dist.*, 708 F.2d
7 452, 454 (9th Cir. 1983), this Court conducted a de novo review of the case. Having carefully reviewed
8 the matter, the Court finds the findings and recommendations are supported by the record and proper
9 analysis. Based upon the foregoing, the Court **ORDERS**:

- 10 1. The findings and recommendations filed November 3, 2022 (Doc. 21) are **ADOPTED**
11 **IN FULL**.
- 12 2. Plaintiff’s motion for summary judgment (Doc. 15) is **GRANTED**.
- 13 3. Defendant’s cross-motion for summary judgment (Doc. 19) is **DENIED**.
- 14 4. This matter is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for
15 further proceedings consistent with this decision.
- 16 5. The Clerk of the Court is **DIRECTED** to enter judgment in favor of Plaintiff Georgina
17 Nardone, on behalf of minor child I.F., and against Defendant Acting Commissioner of
18 Social Security, and to **CLOSE** this action.

19
20 IT IS SO ORDERED.

21 Dated: **November 21, 2022**


UNITED STATES DISTRICT JUDGE